

DISTRICT 10

May 16, 2019

Michael Stoker  
Regional Administrator  
US EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Enrique Manzanilla  
Director, Superfund Division  
US EPA Region 9  
75 Hawthorne Street  
San Francisco, CA 94105

Dear Mr. Stoker and Mr. Manzanilla:

On April 24, 2018, the Arizona Department of Environmental Quality (ADEQ) requested that you evaluate expanding the western boundary of the Motorola 52<sup>nd</sup> Street Superfund (M52) site to include portions of the West Van Buren Water Quality Assurance Revolving Fund (WQARF) site. ADEQ's still-pending request is based on the physical characteristics of the site together with EPA's legal authority to -- and precedent of -- expanding the boundaries of existing superfund sites to address source contamination that has migrated beyond existing site boundaries.

As state legislators, we write in support of ADEQ's April 24, 2018 request. Our support and request are based upon the relationship between the two sites, most specifically the data demonstrating the plume at the WQARF site is an extension of the M52 plume, as well as the prospects for a speedier and more efficient cleanup should the two sites be subject to cleanup jurisdiction under CERCLA.

ADEQ's request presents compelling data showing that at least a significant portion of the West Van Buren plume is, in fact, a protraction of the M52 site plume. An extension of EPA jurisdiction to include this portion of the West Van Buren WQARF site is both sensible and fully consistent with data and precedent. As detailed in the ADEQ letter, EPA retains authority under CERCLA to expand the boundaries of the M52 site as we are requesting. 42 U.S.C. 9601(9) (defining a "facility" to be any site where a hazardous substance "has been deposited, stored, disposed of, or placed or otherwise come to be located"). EPA has consistently maintained its authority to expand the boundaries of sites to encompass the scope of contamination that has migrated from its original source. This is evident in the 2018 National Priorities List Final Rule, 83 Fed. Reg. 2549 at 2551, and from EPA's own extensive documentation of the M52 site as recounted in ADEQ's letter. EPA's exertion of such authority has been upheld by the courts, as ADEQ's letter likewise affirms.

Consistent with and fully supported by EPA's authority to expand the boundaries of a CERCLA site to include all areas contaminated by an original source, EPA has twice expanded the M52 site to encompass portions of WQARF sites. The M52 site's OU2 and OU3 areas were formerly a separate WQARF site known as the East Washington site but were successively established as operable units of the M52 site as contamination was linked to the Motorola 52<sup>nd</sup> street plant. Rather than perpetuate this piecemeal expansion of the Superfund site boundaries into the WQARF site, we believe it more sensible and efficient to expand the boundaries of the CERCLA site to include the full area of pollutants that can be directly linked to it at this time.

The expansion of the M52 site in the manner ADEQ and we advocate has multiple benefits. First and foremost, it simplifies the task of identifying potentially responsible parties and developing a compliant remedial action plan. Efficiencies are realized by both government actors as well as for many of the potentially responsible parties who have liability at both sites. Such PRPs are alleviated of the requirement that they respond to the multiple and potentially overlapping and duplicative demands of EPA and ADEQ carrying out their respective responsibilities under the federal and state cleanup laws.

Extending the M52 site over portions of the West Van Buren site would also be more protective of human health and the environment. A comparison of the histories of these two sites shows that the bisection of this contamination has been unproductive at best and potentially harmful at worst. While decades of remedial action have occurred at the M52 site, decades of work at the West Van Buren site has produced very few results and no site-wide remedy. Many of the factors that have long delayed the identification and deployment of remedial options in the West Van Buren WQARF site would be eliminated or reduced were EPA to assert jurisdiction over the single combined site.

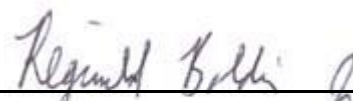
We respectfully request your prompt attention to this matter. As you know, groundwater quality in the West Van Buren site is out of compliance with Arizona law, which classifies all the state's aquifers for "drinking water protected use" (Arizona Revised Statutes § 49-224 B). While studies of human exposure to contaminants at the site have failed to identify an immediate risk of harm, prudence dictates that the contaminants at the site be cleaned up quickly to eliminate any potential for future harm. With each passing month and year, contamination from the original source in M52 continues to spread and the magnitude and cost of a remedial action will continue to rise.

In conclusion, we believe that physical data, legal authority, and common sense all point to EPA action as the most appropriate and productive path forward. Therefore, we ask that EPA favorably considers ADEQ's request and extends the boundaries of the M52 site to include the full extent of groundwater and soil contamination directly linked to the M52 site sources.

Respectfully,




Representative Kirsten Engel, LD10



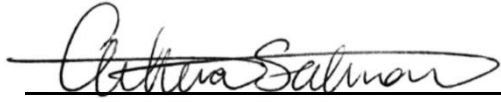
Minority Whip Reginald Bolding, LD27



Minority Leader Charlene Fernandez, LD4



Assistant Minority Leader Randall Friese,  
MD, LD9



Minority Whip Athena Salman, LD26



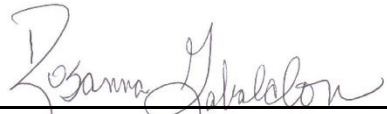
Representative Richard Andrade, LD29



Representative Cesar Chavez, LD29



Representative Diego Espinoza, LD19



Representative Rosanna Gabaldon, LD2



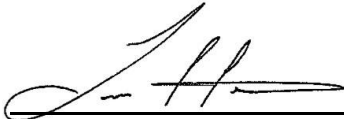
Representative Diego Rodriguez, LD27



Representative Lorenzo Sierra, LD19



Representative Raquel Teran, LD30



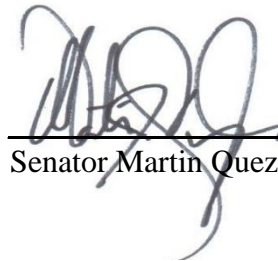
Assistant Minority Leader Lupe Contreras,  
LD19



Minority Whip Lisa Otondo, LD4



Senator Rebecca Rios, LD27



Senator Martin Quezada, LD29